

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

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|---------------------------------|---|---------------------------------|
| ARENZO HOFFMAN, #Y46018, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No. 21-cv-00164-JPG |
| |) | |
| RICHARD WATSON, |) | |
| TRINITY SERVICE GROUP, |) | |
| and DR. DAVID MARCOWITZ, |) | |
| |) | |
| Defendants. |) | |

ORDER DISMISSING CASE

GILBERT, District Judge:

This case was opened on February 11, 2021, after being severed from an action filed by Plaintiff Cortez Brown and a dozen other detainees at St. Clair County Jail (“Jail”) two days earlier. *See Brown, et al. v. Watson, et al.*, No. 21-cv-00138-JPG (S.D. Ill. filed Feb. 9, 2021) (“original case”). This severed case focuses entirely on Plaintiff Arenzo Hoffman’s claims of unconstitutional conditions of confinement at the Jail. (Doc. 2, severed case). Plaintiff seeks money damages from three defendants. (*Id.* at 13).

The Complaint survived screening under 28 U.S.C. § 1915A. (Doc. 14). Plaintiff was allowed to proceed with Counts 1, 2, 3, and 4 against the defendants. (*Id.* at 6-7). He was also granted leave to proceed *in forma pauperis* and assessed an initial partial filing fee of \$17.22. (Doc. 13).

After the defendants answered, the Court entered an Initial Scheduling and Discovery Order with instructions and deadlines for litigation. (Doc. 40). In the Order, the Court noted Plaintiff’s failure to pay the initial partial filing fee and ordered him to make payment or demonstrate his inability to do so, if he wanted to proceed with the case:

I. Filing Fee

Plaintiff was assessed an initial partial filing fee of \$17.22. (Doc. 13). The Court notes that Plaintiff still owes \$17.22 towards payment of the initial partial filing fee. Plaintiff shall have until **October 5, 2021** to pay that sum in full or to demonstrate that he has no means to pay that amount. If Plaintiff attempts to show that he is without the means to pay the initial partial filing fee, he must include a statement of his prison trust fund account showing all transactions and balances for the entire period this case has been pending.

(*Id.*). The Court made it clear that failure to follow the instructions and deadlines set forth in that Order could result in dismissal of the action. (*Id.* at 1) (emphasis in original) (stating “**Failure to follow this Order may result in sanctions, including dismissal of the case.**”).

On October 1 and 5, 2021, Defendants each filed separate motions for summary judgment against Plaintiff for failing to exhaust his available administrative remedies before filing suit. (*See* Docs. 42, 44, and 48). Plaintiff’s responses in opposition to summary judgment were due on or before November 8, 2021. He did not file a response to the pending motions.

He also failed to pay the initial partial filing fee for this action by October 5, 2021.

On October 13, 2021, the Court entered the following show cause order:

ORDER TO SHOW CAUSE -- On March 25, 2021, the Court directed Plaintiff to pay his partial filing fee of \$17.22 (Doc. 13). However, he made no payment toward his initial partial filing fee. Therefore, in the 40 Initial Scheduling and Discovery Order entered August 3, 2021, Plaintiff was again ordered to pay his initial partial filing fee of \$17.22 on or before October 5, 2021. He was warned that failure to comply with the Order may result in dismissal of this case. (Doc. 40, p. 1) ("Failure to follow this Order may result in sanctions, including dismissal of the case."). As of this date, Plaintiff has failed to pay the initial partial filing fee, and he has failed to demonstrate any inability to pay this amount. Plaintiff has also failed to request an extension of the deadline for doing both. Thus, the Court once again DIRECTS Plaintiff to pay his partial filing fee of \$17.22 in full or to demonstrate that he has no means to pay that amount on or before November 5, 2021. If Plaintiff attempts to show that he is without the means to pay the initial partial filing fee, he must include a statement of his prison trust fund account showing all transactions and balances for the entire period this case has been pending. Plaintiff is WARNED that failure to follow this Show Cause Order shall result in the dismissal of his case for failure to comply with a court order and/or prosecute his claims. See Fed. R. Civ. P. 41(b). Show Cause Response due by 11/5/2021.

(Doc. 52). Plaintiff also missed the deadline for responding to this order on November 5, 2021, and the Court has heard nothing from him about this initial partial filing fee since. In fact, Plaintiff has filed nothing with the Court in this case since July 8, 2021, when he transferred to Menard Correctional Center. (*See* Doc. 35).

The Court will not allow this matter to linger any longer. The action shall be dismissed with prejudice, based on Plaintiff's failure to comply with the Court's Orders to pay the initial partial filing fee of \$17.22 (Docs. 13 and 40) and to show cause why this case should not be dismissed for failure to pay said fee (Doc. 53). *See* FED. R. CIV. P. 41(b). He also failed to respond to any motions for summary judgment and, by all indications, has abandoned his claims. *See id.*

Disposition

IT IS ORDERED that this action is **DISMISSED** with prejudice, based on Plaintiff's failure to comply with multiple Court Orders (Docs. 13, 40, and 53) and his failure to prosecute his claim(s) herein. *See* FED. R. CIV. P. 41(b); *Ladien v. Astrachan*, 128 F.3d 1051 (7th Cir. 1997). The pending motions for summary judgment (Docs. 42, 44, and 48) are **DISMISSED** as **MOOT**. This dismissal does not count as a "strike." 28 U.S.C. § 1915(g).

IT IS ORDERED that Plaintiff's obligation to pay the filing fee for this action was incurred at the time the action was filed, regardless of subsequent developments in the case. Accordingly, the filing fee of \$350.00 remains due and payable. *See* 28 U.S.C. § 1915(b)(1); *Lucien v. Jockisch*, 133 F.3d 464, 467 (7th Cir. 1998).

The Clerk's Office is **DIRECTED** to close this case and enter judgment accordingly.

IT IS SO ORDERED.

DATED: 11/18/2021

s/ J. Phil Gilbert
J. PHIL GILBERT
United States District Judge